

**BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

Meeting Date: January 18, 2006

Division: County Attorney

Bulk Item: Yes xx No     

Department: County Attorney

Staff Contact Person: Jerry Sanders x3470

**AGENDA ITEM WORDING:** Resolution declaring recommendations of the Special Master on applications for removal of properties from Conservation and Natural Area (CNA) designation moot and authorizing property owners who participated in the CNA hearings the option of utilizing and incorporating the record created before Special Master in public hearings of the BOCC for adoption of Tier designations or future appeals regarding same.

**ITEM BACKGROUND:** The interim development ordinance prohibiting development in areas designated by Ordinance 18-2004 as Conservation and Natural Areas (CNA) expired in December 2005 by virtue of its sunset provision. Affected property owners had been afforded an opportunity to appear before a Special Master to contest the inclusion of their property in the CNA. Those hearings were held in the Spring of 2005. Thirty-one property owners had adverse recommendations by the Special Master to the BOCC but the Interim Development Ordinance expired prior to the scheduling of the hearings on same, thus rendering the final hearings under that ordinance moot. In order to afford affected property owners the opportunity to utilize the record created before the Special Master in public hearings of the BOCC for adoption of Tier designations or future appeals regarding same to contest final Tier designations, when the Tier system is adopted, it is recommended that the Board authorize those owners, by resolution, the option of utilizing the record created during the CNA hearings in public hearings of the BOCC for adoption of Tier designations or future appeals regarding same. So as not to create an unlimited record keeping burden, if the record is to be utilized in an appeal (as opposed to a public hearing of the BOCC) it is recommended that the property owner must make that election known to the County within 120 days after the adoption of the Tier maps.

**PREVIOUS RELEVANT BOCC ACTION:** Board adopted CNA by ordinance 18-2004 in 2004.

**CONTRACT/AGREEMENT CHANGES:** n/a

**STAFF RECOMMENDATIONS:** Approval.

**TOTAL COST:** n/a

**BUDGETED:** Yes      No     

**COST TO COUNTY:** n/a

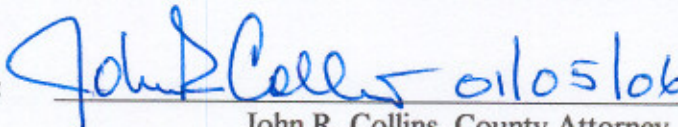
**SOURCE OF FUNDS:** n/a

**REVENUE PRODUCING:** Yes      No xx

**AMOUNT PER MONTH** n/a **Year** n/a

**APPROVED BY:** County Atty xx OMB/Purchasing      Risk Management     

**DIVISION DIRECTOR APPROVAL:**

  
John R. Collins, County Attorney

**DOCUMENTATION:** Included xx

Not Required      **TO FOLLOW**

**DISPOSITION:**     

**AGENDA ITEM #**



**RESOLUTION NO.        -2006**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA DECLARING CONSIDERATION OF SPECIAL MASTER'S RECOMMENDATIONS ON APPLICATIONS FOR REMOVAL OF PROPERTIES FROM THE CONSERVATION AND NATURAL AREAS BOUNDARIES MOOT AND AUTHORIZING PROPERTY OWNERS WHO MADE SUCH APPLICATIONS THE OPTION OF INCORPORATING THE RECORD CREATED BEFORE THE SPECIAL MASTER IN PUBLIC HEARINGS OF THE BOCC FOR ADOPTION OF TIER DESIGNATIONS OR FUTURE APPEALS REGARDING SAME.**

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**WHEREAS,** The Board of County Commissioners adopted an Interim Development Ordinance designated No. 018 -2004 on June 16, 2004.

**WHEREAS,** Ordinance No. 018 - 2004 designated certain Conservation and Natural Areas, the boundaries of which were described in maps attached thereto and made a part of that ordinance and were defined as meaning all land located within the boundaries of the attached Conservation and Natural Area maps.

**WHEREAS,** during the period that this interim ordinance was in effect no Rate Of Growth Ordinance allocation award, whether residential (ROGO) or nonresidential (NROGO), with an application entry date of April 14, 2004, or later was allowed for development that involved the clearing of any portion of an upland tropical hardwood hammock or pinelands habitat contained in a patch of two acres or more in size within a Conservation and Natural Area.

**WHEREAS,** Ordinance No. 018 - 2004 provided that proposed amendments to Conservation and Natural Areas boundaries may be initiated by a written applications submitted by an affected property owner to the planning and Environmental Resources Department on a form proved by that Department.

**WHEREAS,** Ordinance No. 018 - 2004 further provided that such applications for proposed amendments to the boundaries of the conservation and natural areas shall follow a streamlined review process, i.e., review by the Development Review Committee and Planning Commission would not be required and the following procedure would be utilized instead:

- (a) Application for a proposed amendment will be submitted to the Planning and Environmental Resources Department for consideration by the Special Master at a public hearing advertised at least fifteen days prior to the hearing. The Special Master shall receive written and/or oral testimony of County staff



and applicant, and shall provide reasonable opportunity for relevant and material public testimony. The Special Master shall promptly render a written opinion to the Board of County Commissioners, recommending approval (in whole or in part) or denial of the request for a boundary amendment.

- (b) The public hearing for the Board of County Commissioners' consideration of the Special Master's recommendations will be advertised at least 15 days prior to the public hearing, but no posting of the property will be required.

**WHEREAS**, 40 property owners applied for amendments to the boundaries of the Conservation and Natural Areas and participated in hearings before the Special Master appointed by the Board of County Commissioners. The Special Master made findings and recommended that 9 properties be removed from the CNA boundary (to which the Director of Planning and Environmental Resources concurred) and that 31 properties should remain within the CNA boundary.

**WHEREAS**, Ordinance No. 018 – 2004 was in effect until December 16, 2005, when it expired by its own terms prior to the BOCC holding any public hearings on the Special Master's recommendations.

**WHEREAS**, the Conservation and Natural Areas boundaries defined in Ordinance No. 018 – 2004 are in large part proposed to be Tier I of the revisions to the Land Development Regulations in which development will be highly discouraged.

**WHEREAS**, revisions to the Land Development Regulations providing for objections and appeals to inclusion in Tier I will likely provide for a Special Master hearing similar to the application for amendments to the boundaries of the Conservation and Natural Areas.

**WHEREAS**, the issues regarding inclusion within Tier I will probably be the same or similar to the issues for removal from the boundaries of the Conservation and Natural Areas.

**WHEREAS**, in the interest of economy for the property owners who participated in the Special Master hearings Board of County Commissioners desires to allow them the option of utilizing the same record previously created before the Special Master in public hearings of the BOCC for adoption of Tier designations or future appeals regarding same.



**NOW THEREFORE; BE IT RESOLVED BY THE BOARD OF COUNTY  
COMMISSIONERS OF MONROE COUNTY, FLORIDA, THAT**

1. For the reasons stated in the above findings, the public hearing for the Board of County Commissioners' consideration of the Special Master's recommendations subsequent to hearings on applications for proposed amendments to boundaries of Conservation and Natural Areas pursuant to Ordinance No. 018 – 2004 is declared unnecessary and moot due to the expiration by its own terms of the effective dates of Ordinance No. 018 – 2004.
2. In the interest of economy for the 31 property owners who applied for amendments to the boundaries of the Conservation and Natural Areas and participated in hearings before the Special Master and received an adverse recommendation for consideration by the Board Of County Commissioners they shall be allowed the option of utilizing the hearing record previously created before the Special Master in public hearings of the BOCC for adoption of Tier designations in the Land Development Regulations or future appeals regarding same.
3. Other than in public hearings of the BOCC for adoption of Tier designations in the Land Development Regulations, in order to utilize the record previously created before the Special Master notice must be given by the affected property owner to the County's Director of Planning and Environmental Resources of the property owner's intention to utilize the hearing record, such notice to be given within 120 days after the adoption of any amendments to the Land Use District Map designating Tier boundaries.

**PASSED AND ADOPTED** by the Board of County Commissioners  
of Monroe County, Florida at a regular meeting held on the \_\_\_\_ day of  
\_\_\_\_\_, A.D., 2006.

Mayor Charles "Sonny" McCoy  
Mayor Pro Tem Murray Nelson  
Commissioner Dixie Spehar  
Commissioner George Neugent  
Commissioner David Rice

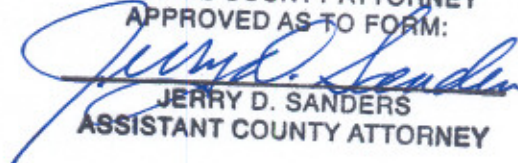
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BOARD OF COUNTY COMMISSIONERS  
OF MONROE COUNTY, FLORIDA

BY: \_\_\_\_\_  
Mayor Charles "Sonny" McCoy

ATTEST: DANNY KOHLAGE, CLERK

MONROE COUNTY ATTORNEY  
APPROVED AS TO FORM:

  
JERRY D. SANDERS  
ASSISTANT COUNTY ATTORNEY